

## Resale Cost Study for SWBT

Costs:		Total Missouri	%	SWBT
		Required	Avoided	Avoided
		(\$000)		
<b>Direct:</b>				
6611	Product Management	6008	90%	6217
6612	Sales	25950	90%	23355
6613	Product Advertising	9725	90%	8753
6621	Call Completion services	12297	100%	12297
6622	Number Services	34450	100%	34450
6623	Customer Services	85212	90%	76691
		174542		
<b>Indirect:</b>				
5301	Uncollectible Revenue	11845	19%	2250
6112	Motor Vehicle Exp	1069	0%	0
6113	Aircraft Exp	0	0%	0
6114	Spec Purpose Vehicle	0	0%	0
6115	Garage Work Equipment	19	0%	0
6116	Other Work Equipment	141	0%	0
6121	Land & Bldg Exp	-3149	19%	-588
6122	Furniture & Artwork	-2035	19%	-387
6123	Office Exp	762	19%	145
6124	Gen Purpose Computers	-20131	19%	-3823
6211	Analog Electronic Exp	15625	0%	0
6212	Digital Electronic Exp	32248	0%	0
6215	Electro-mech Exp.	144	0%	0
6220	Operators Exp	1834	0%	0
6231	Radio System Exp.	545	0%	0
6232	Circuit System Exp.	22007	0%	0
6311	Station Apparatus Exp.	4	0%	0
6341	Lg PBX Exp.	409	0%	0
6351	Public Tel Term Eq Exp.	4572	0%	0
6362	Other Terminal Eq Exp.	19182	0%	0
6411	Poles Exp	1486	0%	0
6421	Aerial Cable Exp.	42237	0%	0
6422	Underground Cable Exp.	7156	0%	0
6423	Buried Cable Exp.	51801	0%	0
6424	Submarine Cable Exp.	4	0%	0
6425	Deep Sea Cable Exp.	0	0%	0
6426	Intrabuilding Network Cable Exp.	14	0%	0
6431	Aerial Wire Exp.	272	0%	0
6441	Conduit Systems Exp.	773	0%	0
6511	Telecomm Use Exp.	0	0%	0
6512	Provisioning Exp.	327	0%	0
6531	Power Exp.	4757	0%	0
6532	Network Admin Exp.	12318	0%	0
6533	Testing Exp.	36649	0%	0
6534	Plant Operations Admin	25091	0%	0
6535	Engineering Exp.	21020	0%	0
6540	Access Exp.	49094	0%	0
6561	Depreciation Telecom plant In Ser	307092	0%	0
6562	Depreciation Future Telecom Use	0	0%	0
6563	Amortization Exp - Tangible	787	0%	0
6564	Amortization Exp - Intangible	0	0%	0
6565	Amortization Exp - Other	5266	0%	0
6711	Executive	8667	19%	1647
6712	Planning	1575	19%	299
6721	Accounting & Finance	10420	19%	1980
6722	External Relations	17029	19%	3235
6723	Human Resources	15295	19%	2906
6724	Information Management	31858	19%	6053
6725	Legal	3485	19%	662
6726	Procurement	3884	19%	738
6727	Research and Development	6591	19%	1252
6728	Other Gen. & Admin	27961	19%	5312
<b>Total</b>		<b>1140004</b>		<b>183432</b>
<b>Revenues:</b>		Missouri:	% Included	Included:
Local Service		752251	100%	752251
Toll Network Service		158725	100%	158725
Network Access Service		426655	100%	426655
Miscellaneous		44575	100%	44575
<b>Total</b>		<b>1382206</b>		<b>1382206</b>

### Resale Percentage Discount on Revenue:

% of Resold Services Revenue	20.14%
(Local & Toll Network Service)	
Negative cost excluded	20.56%
and bad debt fully excluded	21.61%

**Summary of PSC Modified Monthly Recurring Costs**

Based upon PSC Modifications to Cost Study Data

Submitted by Southwestern Bell Telephone

	Geographic Zone 1	Geographic Zone 2	Geographic Zone 3	Weighted Avg. Rate
<b><u>Unbundled Loops</u></b>				
8db Loop	\$9.99	\$16.41	\$27.12	\$13.09
ISDN-BRI Loop	\$28.85	\$38.05	\$55.25	\$33.44
DS-1 Loop	\$87.36	\$96.84	\$104.65	\$91.26

**Cross Connects with SMAS Test Equipment****MDF to Cage, Same CO**

2 Wire Analog	\$1.53
4 Wire Analog	\$3.05
2 Wire Digital ISDN-BRI	\$1.53
2 Wire Digital DS 1	\$8.19

**MDF to Cage, Different CO**

2 Wire Analog	\$3.65
4 Wire Analog	\$4.91
2 Wire Digital ISDN-BRI	\$8.74

**MDF to SWBT Multiplexor**

2 Wire Analog	\$3.65
4 Wire Analog	\$4.91
2 Wire Digital ISDN-BRI	\$8.74

**Cross Connects without SMAS Test Equipment****MDF to Cage, Same CO**

2 Wire Analog	\$0.00
4 Wire Analog	\$0.00
2 Wire Digital ISDN-BRI	\$0.00
2 Wire Digital DS 1	\$5.15

**MDF to Cage, Different CO**

2 Wire Analog	\$2.12
4 Wire Analog	\$2.84
2 Wire Digital ISDN-BRI	\$7.21

**MDF to SWBT Multiplexor**

2 Wire Analog	\$2.12
4 Wire Analog	\$2.84
2 Wire Digital ISDN-BRI	\$7.21

**Local Switching**

Per Originating or Terminating MOU	\$0.002240
------------------------------------	------------

**Port Charges per Month**

Analog Port	\$2.51
ISDN-BRI Port	\$4.97
DS-1 Port	60.24

**Summary of PSC Modified Monthly Recurring Costs**

Based upon PSC Modifications to Cost Study Data

Submitted by Southwestern Bell Telephone

	Geographic Zone 1	Geographic Zone 2	Geographic Zone 3	Weighted Avg. Rate
<b><u>Tandem Switching</u></b>				
Per MOU		\$0.0015		
<b><u>Interoffice Transport</u></b>				
Common Transport	Interstate Direct Trunked Transport Rates			
Dedicated Transport	Interstate Dedicated Switched Transport			
<b><u>Conditioning</u></b>				
Local Loop dB Loss Conditioning		\$4.87		
<b><u>Dark Fiber</u></b>				
Underground - per ft., per fiber	\$0.000342	\$0.000799	\$0.003879	
Buried - per ft., per fiber	\$0.000228	\$0.000913	\$0.004564	
<b><u>Other Items</u></b>				
E-911	Existing Intercompany Compensation Arrangement			
Directory Assistance	Existing Intercompany Compensation Arrangement			
Directory Assistance Call Completion	Existing Intercompany Compensation Arrangement			
Directory Assistance Listing	Existing Intercompany Compensation Arrangement			
Operator Assistance	Existing Intercompany Compensation Arrangement			

**PSC Modified Cost Study - Non-Recurring Charges**  
**Based upon PSC Modifications to Cost Study Data**  
**Submitted by Southwestern Bell Telephone**

	Installation		Disconnection	
	Initial	Additional	Initial	Additional
<b><u>Unbundled Loops</u></b>				
8 dB Loop	\$39.61	\$20.41	\$7.14	\$0.59
5 dB Loop*	\$60.36	\$30.33	\$7.14	\$0.59
ISDN-BRI Loop	\$116.64	\$63.93	\$1.16	\$1.16
DS-1 Loop	\$169.97	\$79.39	\$26.93	\$8.62
<b><u>Cross-Connect w/ SMAS Test Equipment</u></b>				
Analog - 2 Wire, Same CO	\$25.41	\$22.82	\$17.17	\$17.17
Analog - 4 Wire, Same CO	\$29.23	\$26.63	\$17.17	\$17.17
Digital BRI - 2 Wire, Same CO	\$25.41	\$22.82	\$17.17	\$17.17
DS 1 - 4 Wire, Same CO	\$29.23	\$26.63	\$17.17	\$17.17
Analog - 2 Wire FXO, Different CO	\$31.29	\$28.69	\$22.74	\$22.74
Analog - 4 Wire FXO, Different CO	\$35.10	\$32.51	\$22.74	\$22.74
Digital BRI - 2 Wire FXO, Different CO	\$31.29	\$28.69	\$22.74	\$22.74
Analog - 2 Wire FXO, SWBT Multiplexor	\$31.29	\$28.69	\$22.74	\$22.74
Analog - 4 Wire FXO, SWBT Multiplexor	\$35.10	\$32.51	\$22.74	\$22.74
Digital BRI, 2 Wire FXO, SWBT Multiplexc	\$31.29	\$28.69	\$22.74	\$22.74
<b><u>Cross-Connect w/o SMAS Test Equipment</u></b>				
Analog - 2 Wire, Same CO	\$21.52	\$18.92	\$14.34	\$14.34
Analog - 4 Wire, Same CO	\$25.33	\$22.74	\$14.34	\$14.34
Digital BRI - 2 Wire, Same CO	\$21.52	\$18.92	\$14.34	\$14.34
DS 1 - 4 Wire, Same CO	\$25.33	\$22.74	\$14.34	\$14.34
Analog - 2 Wire FXO, Different CO	\$27.39	\$24.80	\$19.91	\$19.91
Analog - 4 Wire FXO, Different CO	\$31.21	\$28.61	\$19.91	\$19.91
Digital BRI - 2 Wire FXO, Different CO	\$27.39	\$24.80	\$19.91	\$19.91
Analog - 2 Wire FXO, SWBT Multiplexor	\$27.39	\$24.80	\$19.91	\$19.91
Analog - 4 Wire FXO, SWBT Multiplexor	\$31.21	\$28.61	\$19.91	\$19.91
Digital BRI, 2 Wire FXO, SWBT Multiplexc	\$27.39	\$24.80	\$19.91	\$19.91
<b><u>Local Switching - Per Port</u></b>				
Analog Port	\$58.44	\$54.99	\$0.00	\$0.00
ISDN-BRI Port	\$58.44	\$54.99	\$0.00	\$0.00
DS-1 Port	\$424.21	\$191.24	\$0.00	\$0.00
<b>Service Order Charge</b>	<b>\$0.00</b>			

\* The costs for a 5dB Local Loop include the costs of dB Loss Conditioning.



**BEFORE THE PUBLIC SERVICE COMMISSION**  
**OF THE STATE OF MISSOURI**

In the Matter of Sprint Communications Company L.P.'s )  
Petition for Arbitration of Interconnection Rates, )  
Terms, Conditions and Related Arrangements With GTE ) Case No. TO-97-124  
Midwest Incorporated. )  
)

---

**ARBITRATION ORDER**

---

**Issue Date:** January 15, 1997

**Effective Date:** January 20, 1997

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of Sprint Communications Company L.P.'s )  
Petition for Arbitration of Interconnection Rates, )  
Terms, Conditions and Related Arrangements With GTE ) Case No. TO-97-124 )  
Midwest Incorporated. )  
)

**APPEARANCES**

Julie Thomas Bowles, Attorney, Sprint Communications Company L.P., 8140 Ward Parkway - 5E, Kansas City, Missouri 64114, for Sprint Communications Company L.P.

James C. Stroo, Associate General Counsel-Midwest, GTE Operations, 1000 GTE Drive, Wentzville, Missouri 63385,  
and

Mark B. Bierbower, Hunton & Williams, 1900 K Street, N.W., Washington, DC 20006-1109,

and

Thomas B. Weaver, Armstrong, Teasdale, Schlafly & Davis, One Metropolitan Square, St. Louis, Missouri 63102-2740, for GTE Midwest Incorporated.

Michael F. Dandino, Senior Public Counsel, Office of the Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, for the Office of the Public Counsel and the public.

**ADMINISTRATIVE**

**LAW JUDGE:** Elaine E. Bensavage.

**ARBITRATION ORDER**

**Table of Contents**

Procedural History . . . . .	3
Findings of Fact . . . . .	5
A. General Discussion . . . . .	5
B. Specific Issues Presented for Arbitration	
1. What is the proper methodology for determining the prices for GTE resold services? . . . . .	11

(Table of Contents, cont'd)

2.	Are advertising expenses in their entirety an avoided cost? . . . . .	14
3.	Are call completion costs (Operator Services) in their entirety an avoided cost? . . . . .	16
4.	Are number service costs (Directory Assistance) in their entirety an avoided cost? . . . . .	17
5.	Are some product management costs an avoided cost? . . . . .	18
6.	What percentage of sales expenses is an avoided cost? . . . . .	19
7.	What percentage of uncollectible expenses is an avoided cost? . . . . .	21
8.	What input and loading assumptions should be used in establishing the cost of interconnection and unbundled network elements, and what prices should be the resulting prices? . . . . .	22
9.	What rates are appropriate for transport and termination of local traffic? . . . . .	26
10.	What method should be used to price interim number portability and what specific rates, if any, should be set for GTE? . . . . .	28
11.	What GTE services should be required to be made available for resale at wholesale rates? . . . . .	30
12.	Should GTE be required to offer for resale at wholesale rates services to the disabled, including special features of that service such as free Directory Assistance service calls, if that service is provided by GTE? . . . . .	33
13.	What resale restrictions should be permitted, if any? . . . . .	34
14.	Should each and every retail rate have a corresponding wholesale rate? . . . . .	35
15.	What authorization is required for the provision of customer account information to Sprint? . . . . .	36
16.	Should Sprint be permitted to request a combination of network elements which would enable it to replicate any services GTE offers for resale? . . . . .	39
17.	How should the cost of access to OSS be recovered? . . . . .	41



## (Table of Contents, cont'd)

18.	Should GTE be required to provide Sprint access to OSS systems through electronic interfaces? . . . . .	42
19.	On what basis should OSS electronic interfaces be implemented? . . . . .	42
20.	Should the agreement provide for a Most Favored Nation "pick-and-choose" clause? . . . . .	42
21.	Should GTE geographically deaverage its elements? . . . . .	43
22.	Does the dialing parity requirement in the statute mandate that GTE move from N11 dialing patterns to business offices and service centers, when such dialing is not also available to all other CLECs? . . . . .	44
23.	Should GTE be liable for network fraud caused by GTE's negligence? . . . . .	44
	Conclusions of Law . . . . .	46
	Ordered Paragraphs . . . . .	47
	Attachments A and B	

## Procedural History

Sprint Communications Company L.P. (Sprint) filed a petition for arbitration with GTE Midwest Incorporated (GTE) on September 25, 1996, asking the Commission to arbitrate an interconnection agreement between Sprint and GTE. The petition was filed pursuant to § 252(b) of the federal Telecommunications Act of 1996 (the Act).<sup>1</sup> The Commission adopted a protective order and established an expedited procedural schedule on October 8, 1996. Under the Act, a state commission must resolve all issues under arbitration no later than nine months after the date on which the local exchange carrier (in this case GTE) received a request for interconnection from the petitioner. At the hearing all parties

---

<sup>1</sup>All statutory references are to the federal Telecommunications Act of 1996, unless otherwise specified.

stated that the operation of law date in this case is January 20, 1997, thus the issues must be resolved no later than January 20, 1997.

The Commission permitted no interventions in this case, other than the Office of the Public Counsel (OPC), and allowed only limited discovery because of the expedited schedule. GTE filed its response to Sprint's arbitration petition on October 21, 1996, which included both a response brief and an arbitration brief on takings, in which GTE argued that the Commission's decision must avoid an unconstitutional taking of GTE's property without just compensation. Both Sprint and GTE prefiled simultaneous direct testimony, and GTE also prefiled rebuttal testimony. The parties submitted an Issues Memorandum on December 2, 1996, which set out 23 unresolved issues.

The Commission conducted an arbitration hearing on December 9 and 10, 1996. At that time the Commission was informed that Issues 17, 18, 19 and 22 have been settled among the parties. The parties filed posthearing briefs on December 31, 1996.

There were a number of late-filed exhibits, none of them eliciting objections. Late-filed Exhibit No. 33 (Sprint's comparison of the prices proposed by the parties), Late-filed Exhibit No. 34 (GTE's list of Total Service Long Run Incremental Cost (TSLRIC) studies performed for services and Total Element Long Run Incremental Cost (TELRIC) studies performed for unbundled elements), Late-filed Exhibit No. 35 (GTE's summary of the depreciation rates used in its TELRIC studies, including salvage value), and Late-filed Exhibit No. 36 (GTE's central office video) are received into evidence.

## Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

### A. General Discussion

The Commission is not pleased with the dearth of evidence presented by Sprint and the quality of the evidence presented by GTE. Sprint did not endorse a cost model or propose suggested rates for resale and unbundled elements. GTE's evidence, though voluminous, is not probative of its true costs.

GTE's posture throughout this case has been at odds with the requirements of the Act. GTE essentially wants this Commission to guarantee it will be made whole and continue to earn revenues parallel to what it earned under rate-of-return regulation. For example, GTE states that the Commission must "provide for the recovery of at least all of GTE's historic and forward-looking costs of unbundled elements or resold services plus a reasonable profit." GTE's Arbitration Brief on Takings at 1. And again, "[E]ven if the Commission were to allow GTE a recovery of its forward-looking incremental costs plus a reasonable profit, GTE still must be allowed to recover any portion of its historical costs not yet recovered and to earn a fair rate of return on that investment. Accordingly, the Commission must provide for some mechanism -- such as an end-user charge or surcharge -- by which GTE recovers the difference between the reasonable return that it was promised on its historical, embedded costs and what it will now receive under a regime of competition." *Id.* at 3. GTE contends that to interpret the Act in any other way would effect a taking of GTE's property without just compensation, in violation of the Fifth and Fourteenth Amendments of the U.S. Constitution. Likewise, while GTE acknowledges that if prices are

set too high, competition may be slow to develop, GTE appears to consider this of little consequence: "Since Sprint has expended no capital in GTE's local exchange areas, and Sprint's participation is voluntary, they can simply choose not to pursue this line of business. At worst, the status quo will continue." Response of GTE at 2.

The Commission finds that GTE's posture is inconsistent with both the language and spirit of the Act. See, e.g., § 252(d)(1)(A)(i). To the extent that GTE believes the Commission's enforcement of the Act will result in an unconstitutional taking, GTE's remedy is to challenge the constitutionality of the Act in an appropriate forum. The Commission is not an Article III Court, and therefore has no power to review and determine the constitutionality of congressional legislation. The Commission must presume the constitutionality of the Act until such time as it is judicially declared invalid. Under GTE's restrictive reading of the Act, there would be little point to the legislation and hence this arbitration. If incumbent local exchange carriers (ILECs) were allowed to recover their historical costs, prices would be highest among ILECs which are inefficient or are overearning. Competitive local exchange carriers (CLECs) would never have an incentive to enter the market of inefficient ILECs, but instead would be attracted to ILECs which had already obtained some degree of efficiency. This would negate the goal of Congress that competition be developed in the local exchange market in order to bring the benefits of greater efficiency, lower prices, and new services to the market.

The studies submitted by GTE to support its proposed prices for resold services, and interconnection and unbundled elements, are flawed by its position that it must be made whole. For example, The prices generated by GTE's proposed Market-Determined Efficient Component Pricing Rule (M-ECPR) costing model are not cost-based, but instead are based upon GTE's historic revenues. The M-ECPR

costing model also introduces an end-user tax designed to recover any of GTE's lost revenues. After analyzing the model, the Commission finds that the model, as presented, is not acceptable. Likewise, the Commission finds GTE's avoided cost studies to be similarly unacceptable. GTE apparently believes that virtually no costs will be avoided in a wholesale environment, even though the Act lists costs which will be avoided. In addition, GTE chose not to use Missouri-specific data in its avoided cost study, and used an internal management accounting system called a "Work Center." Thus the avoided cost study was presented in a form which made it difficult for the Commission and the other parties to verify the data. Use of a standardized accounting system such as the Uniform System of Accounts (USOA) would have enabled the data to be verified and cross-checked.

Throughout this proceeding Sprint has argued that it is entitled to receive the same terms and conditions given to AT&T in the AT&T/GTE arbitration case, Case No. TO-97-63 (AT&T/GTE Arbitration). GTE, on the other hand, has proclaimed that the Commission is bound to adopt its proposals, since Sprint did not present its own evidence. Sprint's argument is largely irrelevant since it can request the same terms and conditions received by AT&T under § 252(i) as soon as AT&T's interconnection agreement with GTE is approved. Likewise, GTE's position assumes that the Commission's arbitration authority is limited to picking one of two positions proffered by the parties to the arbitration.

The Commission's arbitration authority is not so limited. This point warrants further discussion, since certain parties to this arbitration proceeding, which was conducted pursuant to § 252 of the federal Telecommunications Act, have raised objections which are more appropriate to a judicial or quasi-judicial administrative proceeding. It is important to remember that this is an arbitration proceeding, where the Staff of the

Commission was ordered to serve as advisors to the Commission, where intervention was not permitted,<sup>2</sup> and where the Office of the Public Counsel was the only other entity permitted to participate in the case.

Arbitration is generally recognized as a method to resolve disputes, often very complicated ones, through informal means without technical application of the rules of evidence, or the rules of civil or administrative procedure. While fundamental notions of due process must be observed, the body of law developed in the United States, as well as the State of Missouri, is clear that arbitrators have a significant amount of discretion in how the proceeding is conducted, what facts are considered to resolve the dispute, and what the form of resolution will be. *PaineWebber, Inc. v. Agron*, 49 F.3d 347, 350-52 (8th Cir. 1995); *Osceola Co. Rural Water System, Inc. v. Subsurfco, Inc.*, 914 F.2d 1072, 1075 (8th Cir. 1994); *National Ave. Bldg. Co. v. Stewart*, 910 S.W.2d 334, 346, 348-49 (Mo. App. 1995); *Stifel Nicolaus & Co. v. Francis*, 872 S.W.2d 484, 485-86 (Mo. App. 1994). Indeed, the process of arbitration is so inherently flexible that neither the Telecommunications Act nor even the federal or state arbitration acts precisely define arbitration. See 47 U.S.C. § 252(b)-(c); 9 U.S.C. §§ 1-16 (federal arbitration act); §§ 435.012-.470, R.S. Mo. (1994).

While there are standards in the Act to guide the work of the arbitrators, the absence of comprehensive rules grants a degree of liberality to these proceedings which is consistent with the commercial arbitration practices generally followed by the American Arbitration Association.

Turning to the Act itself, guidance may be found in several provisions. Section 252(b)(4)(B) permits State commissions to request information from the

---

<sup>2</sup>Intervention may be permitted at the time the interconnection agreement, whether arrived at through negotiation or arbitration, is presented to the Commission for approval pursuant to § 252(e) of the Telecommunications Act.

parties needed to render a decision. This suggests that state commissions are not bound to choose strictly between the two positions proposed by the parties, but have some degree of flexibility. Moreover, § 252(b)(4)(C) directs state commissions to resolve the issues "by imposing appropriate conditions as required to implement subsection (c) upon the parties. . . ." Again the choice of language is suggestive. If a state commission is imposing conditions, it is not merely choosing between two positions. Perhaps most tellingly, subsection (c), which the state commissions are required to implement through the imposition of appropriate conditions, requires the resolution of arbitration issues to meet the requirements of § 251 on interconnection, and the pricing standards of subsection (d). § 252(c). Thus state commissions are instructed to decide arbitration issues in conformity with the Act.

This Commission in reaching its arbitration decisions may rely upon evidence presented by the parties, evidence presented to it in past public proceedings; evidence presented to and decisions issued by the Federal Communications Commission and other state commissions, as well as its experience in the public utility arena and generally reliable information which is in the public domain.

Such conclusion is compelled by the mandate of § 252(b)(4)(C) which declares that "the state commission shall resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required to implement [the requirements of the Act] upon the parties to the [interconnection] agreement. . . ." This provision expresses Congress's clear intent to ensure that interconnection agreements reflect the requirements of § 251 and § 252(d) of the Act and to set rates and terms accordingly. This shall be done under the Act even in the face of recalcitrant parties that seek to present a state commission with extreme positions based on incomplete, inaccurate

or incomprehensible evidence. Congress did not intend to impose upon state commissions a Hobson's choice or "winner-take-all" kind of arbitration, sometimes practiced by professional baseball.

The Commission's goal is to decide the arbitration issues in a manner which ensures that the interconnection agreement between GTE and Sprint conforms to the requirements of the Act. Although the Commission has independently considered the arguments of Sprint and GTE in this proceeding, there is no impediment to it considering the decision which is entered in the AT&T/GTE Arbitration, as clarified and reconsidered. There is no prejudice to GTE, which fully participated in those proceedings, was represented by counsel, and had an opportunity to litigate all disputed issues. Thus, while the Commission does not believe it is required to decide this case in exactly the same manner as the AT&T/GTE Arbitration, it will reach the same results where consistent with the Act. The Commission will likewise not hesitate to use Federal Communications Commission (FCC) default proxy rates, promulgated in the FCC's First Report and Order, 96-325 (FCC Order)<sup>3</sup> where these rates yield the best result available at the time the Commission is required to make its decision. The Eighth Circuit's stay order does not prohibit this.

More specifically, the Commission has modified the cost information submitted by GTE, where possible, to conform with TELRIC costing principles. Where the Commission could not rely on cost information submitted by GTE, and in the absence of alternative information from Sprint, the Commission used the best available information. This is consistent with the Commission's statement in its

---

<sup>3</sup>*In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, and *In the Matter of Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket No. 95-185, First Report and Order (Fed. Com. Comm'n, August 8, 1996); partially stayed by *Iowa Util. Board v. FCC*, No. 96-3321 (Eighth Circuit, October 15, 1996) (Order Granting Stay Pending Judicial Review).



procedural order in this case: "Each party may present its case and the Commission will decide the appropriate result. If a party fails to support its case, then it accepts the risk of an adverse decision." Order Establishing Procedural Schedule And Protective Order at 3 (Oct. 8, 1996). The Commission has made modifications to the material presented by GTE, and in some cases, relied on tariffed rates or used FCC default proxy rates as evidence of reasonableness. GTE has adamantly maintained positions inconsistent with, and even diametrically opposed to, the clear language of the Act and of the unstayed portions of the FCC's Order. Therefore, the Commission finds that the rates established by this Arbitration Order should be interim rates pending a thorough investigation of costing issues for GTE.

#### **B. Specific Issues Presented for Arbitration**

##### **1. What is the proper methodology for determining the prices for GTE resold services?**

GTE argued that prices for resold services may be calculated by taking an ILEC's current retail rate and subtracting from it those costs which are avoided when a service is offered through a wholesale rather than a retail distribution channel, then adding to this figure the extra costs incurred by selling at wholesale. GTE provided the Commission with two purported avoided cost studies. The first study, GTE's original avoided cost study, calculated costs for each service on a national basis, using GTE's 1995 cost data. Costs were calculated on a national basis because GTE is structurally organized by work centers, which are not Missouri-specific in nature. Activities in each work center were analyzed to determine avoided costs. The study produced a composite discount of 7 percent.

The second study, GTE's modified avoided cost study, also calculated costs for each service on a national basis, using FCC ARMIS data. Work center cost detail was again used. Based upon this cost detail, GTE claims it rebutted the FCC's presumed avoided costs. GTE contends that call completion, operator services, and number services expenses are not avoided at all; that substantial portions of customer services and product management costs are not avoided; and that sales and advertising costs are not avoided in their entirety. The study produced an avoided cost discount of 11.81 percent. GTE argues that the Commission must use GTE's avoided cost discount, since Sprint did not produce evidence of any alternative cost studies.

Sprint submits that prices for GTE's resold services must be based on GTE's retail price minus the cost avoided for providing that service on a wholesale basis. Avoided costs are those which GTE would no longer incur if it were to cease retail operations and provide services to resellers on a wholesale basis.

Sprint disputes the appropriateness of GTE's avoided cost study, on the basis that the data cannot be verified. Specifically, Sprint complains that instead of supplying information regarding all costs associated with the provision of a service and designating those costs which GTE identified as avoided, GTE provided information only as to the amount of its estimated avoided cost. Sprint also challenges the use of GTE's work centers, an internal management accounting system, rather than a standardized accounting system such as the Uniform System of Accounts (USOA), which would lend itself to verification. In addition, Sprint notes that GTE did not include several cost accounts which the Act recognizes as appropriate for review as avoided costs. Finally, Sprint argues that the Commission should utilize the same wholesale cost discount percentage as it did in the AT&T/GTE Arbitration, since the percentage

was based on Missouri-specific data, and there is no evidence that the cost to provide a service to Sprint on a wholesale basis is any different than the cost to provide it to AT&T.

OPC takes issue with GTE's position, noting that opportunity costs translate to embedded costs, and have no place in the calculation of resale prices. OPC suggests that in the event the Commission finds that the arbitration parties have failed to present costing and pricing plans which are just, reasonable, nondiscriminatory and consistent with the Act's mandate, the Commission should adopt the FCC default proxy rates as experimental, interim rates, pending a thorough examination by the Commission of costing and pricing in a competitive environment. OPC acknowledges that the FCC default proxy values do not have the legal effect of a regulation given the Eighth Circuit's stay order, but suggests that these values may be used by the Commission as evidence. OPC notes that the proxy rates are estimates based upon various cost studies which were submitted to the FCC in its rulemaking docket.

The Commission notes that the discount rate for resold services is essentially calculated by determining the avoided cost and dividing it by revenue, but points out that the cost studies are made intricate by the sheer number of cost categories which must be considered. GTE's first study, a service-by-service approach, has a theoretical advantage of recognizing that different discount rates may be appropriate for different services. GTE's second study is based upon the type of study prescribed by the FCC Order. Both studies are flawed. Neither uses Missouri-specific data. The information is difficult for outsiders such as Sprint, OPC and the Commission to compare and verify.

The Act states that wholesale rates must be based on retail rates less any proportions attributable to "any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier." § 252(d)(3). The

FCC Order states that the words "costs that will be avoided" includes all of the costs an ILEC would no longer incur if it ceased retail operations and provided all its services through resellers. FCC Order ¶ 911. The Order also provides a beginning point for calculating an appropriate discount by specifying the cost categories which should be presumed to be avoided (plant-specific and plant nonspecific expenses) in providing services for resale. FCC Order ¶¶ 917-919. A Missouri-specific calculation, using ARMIS data and the FCC's presumed avoided costs as a basic starting point, yields a discount of 26.93 percent.

The FCC calculated a GTE nationwide default resale discount rate of 18.81 percent. See FCC Order ¶ 930. However, the FCC calculated a discount of 12 percent for GTE California. *Id.* at ¶ 899. These divergent figures raise a concern that GTE may be allocating a disproportionate amount of its costs to Missouri and other states. For example, GTE allocated approximately \$250,000 to its Missouri operations for airplanes used exclusively in the state of Texas.

The Commission finds that a discount of 26.93 percent results in just and reasonable interim rates for resold basic local telecommunications services. The parties should prepare an interconnection agreement that incorporates rates reflected in Attachment A to this Arbitration Order entitled "Resale Cost Study for GTE."

## **2. Are advertising expenses in their entirety an avoided cost?**

This issue and the next five issues deal with whether certain expenses are to be considered avoided costs, and if so, what percentage of the costs are avoided. While these issues are treated as separate issues in the Issues Memorandum, and will be treated as separate issues in the Commission's Arbitration Order, the outcomes of these issues are integral to the resolution of

Issue 1. Likewise, the discussion under Issue 1 has relevance to the Commission's decision regarding these issues.

GTE contends that advertising expenses in their entirety will not be avoided by GTE in a wholesale environment. GTE also states that Sprint has admitted this.

Sprint claims that the Commission must adopt the same percentage of avoided expenses for each of the disputed accounts in this proceeding as it adopted in the AT&T/GTE Arbitration. Sprint also notes that GTE admitted it did not consider Account 6613, Advertising, in its avoided cost study.

OPC takes issue with GTE's position, noting that opportunity costs translate to imbedded costs, and have no place in the calculation of resale prices. OPC suggests that in the event the Commission finds that the arbitration parties have failed to present costing and pricing plans which are just, reasonable, nondiscriminatory and consistent with the Act's mandate, the Commission should adopt the FCC default proxy rates as experimental, interim rates, pending a thorough examination by the Commission of costing and pricing in a competitive environment. OPC acknowledges that the FCC default proxy values do not have the legal effect of a regulation given the Eighth Circuit's stay order, but suggests that these values may be used by the Commission as evidence. OPC notes that the proxy rates are estimates based upon various cost studies which were submitted to the FCC in its rulemaking docket.

The Commission determines that advertising costs are a part of marketing costs. The Act provides that "a state commission shall determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier." § 252(d)(3). The Commission finds that the information presented by

the arbitration parties on avoided costs is inadequate; insufficient data exist on all avoided costs such that the Commission is prevented from calculating wholesale costs which are just, reasonable, nondiscriminatory, and consistent with the Act's mandate. Thus, the Commission determines that the best evidence available to it in this proceeding is the FCC's presumptive avoided costs. The Commission finds that advertising expenses, Account 6613, are 90 percent avoided.

### **3. Are call completion costs (Operator Services) in their entirety an avoided cost?**

GTE alleges that call completion costs in their entirety will not be avoided by GTE in a wholesale environment. GTE also submits that Sprint has admitted this.

Sprint claims that call completion costs are avoided when Sprint uses its own Operator Services. Sprint also insists that the Commission must adopt the same percentage of avoided expenses for each of the disputed accounts in this proceeding as it adopted in the AT&T/GTE Arbitration.

OPC takes issue with GTE's position, noting that opportunity costs translate to imbedded costs, and have no place in the calculation of resale prices. OPC suggests that in the event the Commission finds that the arbitration parties have failed to present costing and pricing plans which are just, reasonable, nondiscriminatory and consistent with the Act's mandate, the Commission should adopt the FCC default proxy rates as experimental, interim rates, pending a thorough examination by the Commission of costing and pricing in a competitive environment. OPC acknowledges that the FCC default proxy values do not have the legal effect of a regulation given the Eighth Circuit's stay order, but suggests that these values may be used by the Commission as evidence. OPC notes that the proxy rates are estimates based upon various cost studies which were submitted to the FCC in its rulemaking docket.

The Commission finds that the information presented by the arbitration parties on avoided costs is inadequate; insufficient data exist on all avoided costs such that the Commission is prevented from calculating wholesale costs which are just, reasonable, nondiscriminatory, and consistent with the Act's mandate. Thus, the Commission determines that the best evidence available to it in this proceeding is the FCC's presumptive avoided costs. The Commission finds that call completion costs (Operator Services), Account 6621, are 100 percent avoided as to Sprint's basic local service resale customers.

**4. Are number service costs (Directory Assistance) in their entirety an avoided cost?**

GTE asserts that Directory Assistance costs will not be avoided in their entirety by GTE in a wholesale environment. GTE also maintains that Sprint has admitted this.

Sprint submits that Directory Assistance costs are avoided when Sprint uses its own operators to perform directory assistance. Sprint adds that the Commission must adopt the same percentage of avoided expenses for each of the disputed accounts in this proceeding as it adopted in the AT&T/GTE Arbitration.

OPC takes issue with GTE's position, noting that opportunity costs translate to imbedded costs, and have no place in the calculation of resale prices. OPC suggests that in the event the Commission finds that the arbitration parties have failed to present costing and pricing plans which are just, reasonable, nondiscriminatory and consistent with the Act's mandate, the Commission should adopt the FCC default proxy rates as experimental, interim rates, pending a thorough examination by the Commission of costing and pricing in a competitive environment. OPC acknowledges that the FCC default proxy values do not have the legal effect of a regulation given the Eighth Circuit's stay order, but suggests that these values may be used by the Commission as evidence. OPC notes that the

proxy rates are estimates based upon various cost studies which were submitted to the FCC in its rulemaking docket.

The Commission finds that the information presented by the arbitration parties on avoided costs is inadequate; insufficient data exist on all avoided costs such that the Commission is prevented from calculating wholesale costs which are just, reasonable, nondiscriminatory, and consistent with the Act's mandate. Thus, the Commission determines that the best evidence available to it in this proceeding is the FCC's presumptive avoided costs. The Commission finds that number service costs (Directory Assistance), Account 6622, are 100 percent avoided as to Sprint's basic local service resale customers.

##### **5. Are some product management costs an avoided cost?**

GTE urges that product management expenses are not avoided, since product planning, product development, and product roll-out activities are required regardless of whether products are offered at retail or wholesale.

Sprint asserts that only some, not all, product management expenses are avoided. Sprint also avers that the Commission must adopt the same percentage of avoided expenses for each of the disputed accounts in this proceeding as it adopted in the AT&T/GTE Arbitration.

OPC takes issue with GTE's position, noting that opportunity costs translate to imbedded costs, and have no place in the calculation of resale prices. OPC suggests that in the event the Commission finds that the arbitration parties have failed to present costing and pricing plans which are just, reasonable, nondiscriminatory and consistent with the Act's mandate, the Commission should adopt the FCC default proxy rates as experimental, interim rates, pending a thorough examination by the Commission of costing and pricing in a competitive environment. OPC acknowledges that the FCC default proxy values do not have the



legal effect of a regulation given the Eighth Circuit's stay order, but suggests that these values may be used by the Commission as evidence. OPC notes that the proxy rates are estimates based upon various cost studies which were submitted to the FCC in its rulemaking docket.

The Commission finds that the information presented by the arbitration parties on avoided costs is inadequate; insufficient data exist on all avoided costs such that the Commission is prevented from calculating wholesale costs which are just, reasonable, nondiscriminatory, and consistent with the Act's mandate. Thus, the Commission determines that the best evidence available to it in this proceeding is the FCC's presumptive avoided costs. The Commission finds that product management costs, Account 6611, are 90 percent avoided.

#### **6. What percentage of sales expenses is an avoided cost?**

GTE contends that its avoided cost study provides the appropriate avoided sales expense, based upon GTE's specific cost data. GTE also alleges that Sprint has admitted sales expenses will remain even in the wholesale environment.

Sprint claims that all retail sales expenses are avoided costs. Sprint also maintains that GTE was unable to identify exactly how much of Account 6612, Sales Expense, was incorporated into the amount calculated as GTE's avoided cost. This inability to cross-reference the avoided cost study to verifiable account data, Sprint stresses, indicates the inherent flaws in GTE's avoided cost study. In addition, Sprint contends that the Commission must adopt the same percentage of avoided expenses for each of the disputed accounts in this proceeding as it adopted in the AT&T/GTE Arbitration.

OPC takes issue with GTE's position, noting that opportunity costs translate to imbedded costs, and have no place in the calculation of resale